



# CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

## **Brunswick Board of Appeals Minutes August 24, 2006**

**Commission Members Present:** Chair Dawn Page and Barbara Baker, Alternate.

**Mayor & Council Present:** None.

**Staff Present:** Development Review Planner Jeff Love, Utility and Comprehensive Planner Jack Whitmore, and City Attorney David Severn.

Chair Page called the meeting to order at 7:00 PM.

### **Minutes:**

The minutes for the July 27, 2006 meeting were reviewed and approved with a minor amendment, (motion by Mrs. Baker and seconded by Ms. Page, passed Yea 2 Nay 0).

### **Chair:**

Mr. Love announced that Ms. O'Brien was out of town and that Mr. Hawes would not be in attendance.

### **Old Business:**

### **Zoning – Variance**

**Keith & Courtney Brown** - Request for a Variance from the Lot Area, Setbacks and Parking Requirements for the Two Family dwelling in order to subdivide the property into two lots, located at 110 & 112 North First Avenue, on corner of North First Avenue and Alley No. 28 (Tax Map 202, Parcel 1067). Zoned R-1, BR-BOA-06-01-V

Chair Page swore in those wishing to testify on the case.

### **Staff Presentation**

Mr. Love read the case file into the record.

Mr. Love presented the Data Sheet (Copy Attached) to include the following requested Variances: 6' Variance from the Required 6' Side Yard Setback for a Duplex Dwelling for Proposed Lot 7-A; +/- 962 sq. ft. Variance from the Required 2,750 sq. ft. of Lot Area for a Duplex Dwelling for Proposed Lot 7-A; 2.12' Variance from the required 20' length

**Staff Presentation Cont.**

required for Parking Spaces for Lot 7-A; +/- 953 sq. ft. Variance from the Required 2,750 sq. ft. of Lot Area for a Duplex Dwelling Unit for Lot 6-A; and a 2 Off-Street Parking Space Variance from the Required 2 Off-Street Parking Spaces for Proposed Lot 6-A.

Mr. Love stated that if the Board is considering the approval of some variance, the following conditions should be considered for that approval:

1. Applicant should adequately demonstrate to the Board that in event of redevelopment there would be sufficient area for construction without the need for future variances.
2. The Applicant should provide evidence of the inability to provide the required Off-Street Parking or adequately mitigate the effect of not providing all of the Off-Street Parking.
3. If the variances are granted and the submitted subdivision plat proceeds the applicant must provide evidence of the proposed Maintenance Easement prior to signature of Plat.
4. The Applicant is bound by their testimony.

Under Article 24.3,C, a variance may be granted provided that the need justifying the variance is substantial and immediate and not merely for the convenience of the applicant or to increase the dollar value of a property. The applicant must prove that the strict application of the regulation creates a practical difficulty, or specifically that:

1. strict compliance with the regulations would prevent the use of the property for a permitted purpose or would render conformance unnecessarily burdensome;
2. a lesser variance than that applied for would not provide adequate relief; and
3. granting the variance would not contradict the purpose and intent of the Zoning Ordinance or compromise the public interest.

Under Article 24.8,B,3, the Board of Appeals shall not grant a variance unless and until the following conditions are satisfied:

- a. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same district; and
- b. The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter;

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- c. That the special conditions and circumstances do not result from the actions of the applicant; and
- d. That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and
- e. A public hearing has been held;
- f. That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

At the request of Mrs. Baker, Mr. Love read the other agency comments.

**Applicant:**

Mr. Keith Brown, Applicant, presented his case, and provided answers to some of Staff concerns, and addressed the parking exhibit he provided at the beginning of the meeting.

He also answered Board questions with regard to his justification for the request and the applications.

**Testimony In Support:** None.

**Testimony In Opposition:** None.

**Additional Relevant Testimony:**

Mr. Severn asked for clarification on the parking variances requested by the applicant.

Mr. Marvin Metzger of 103 East A Street, speaking neither for or against the Variance Requests, spoke on the parking on North First Avenue as it currently exists to clarify the Applicant's statements.

**Rebuttal:**

Mr. Love addressed several points from the Applicant's presentation to include:

- Parking configurations as shown on the applicant's exhibit and additional possible opportunities in order to the applicant to fulfill the required amount of parking.
- The status of the adjoining property at 108 North First Avenue as a Lot of Record and the regulations imposed on it in comparison to the regulations imposed on the Applicant's proposed Lots if subdivided.

Mr. Brown addressed the statements from Mr. Love's rebuttal.

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**Decision**

The Board acted on the requested variances on an individual basis.

Mrs. Baker made a motion to deny a six foot (6') variance from the required six foot (6') side yard setback for a duplex dwelling for proposed Lot 7-A in accordance with the following:

After considering at this public hearing all of the evidence and testimony presented on this Application for a Variance including the Staff Report and Governmental Agency Comments, I move that Application # BR-BOA-06-01-V for a Side Yard Setback Variance of 6' feet from the 6' requirement of Section 11.6 of the City of Brunswick Zoning Ordinance for proposed Lot 7-A be denied based on the following findings of fact:

1. No special conditions or circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of Sections 11.6 of the Zoning Ordinance do not deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
3. The special conditions and circumstances, which exist here are the result of actions of the Applicant.
4. Granting the requested Variance will confer on the Applicant special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
5. The granting of the Variance will not be in harmony and will conflict with the purpose and intent of the Zoning Ordinance and will be injurious to the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.
6. The Variance requested is more than the minimum necessary to afford the adequate relief that the Applicant needs.
7. The need justifying the Variance is not substantial and immediate and merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning Ordinance from which the Variance is requested does not create a practical difficulty for the Applicant.
8. Requiring the Applicant's strict compliance with the Zoning Ordinance regulations will not render such conformance unnecessarily burdensome.

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9. And because the Property was in the same configuration at the time the applicant bought the property.

; Ms. Page seconded the motion.

**VOTE: Yea 2 Nay 0**

Mrs. Baker made a motion to deny the requested +/- 962 sq. ft. variance from the required 2,750 sq. ft. of lot area for a duplex dwelling unit for proposed Lot 7-A in accordance with the following:

After considering at this public hearing all of the evidence and testimony presented on this Application for a Variance including the Staff Report and Governmental Agency Comments, I move that Application #BR-BOA-06-01-V for a Lot Area Variance of +/- 962 sq. ft. from the 2,750 sq. ft. requirement of Section 11.6 of the City of Brunswick Zoning Ordinance for proposed Lot 7-A be denied based on the following findings of fact:

1. No special conditions or circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of Sections 11.6 of the Zoning Ordinance do not deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
3. The special conditions and circumstances, which exist here are the result of actions of the Applicant.
4. Granting the requested Variance will confer on the Applicant special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
5. The granting of the Variance will not be in harmony and will conflict with the purpose and intent of the Zoning Ordinance and will be injurious to the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.
6. The Variance requested is more than the minimum necessary to afford the adequate relief that the Applicant needs.
7. The need justifying the Variance is not substantial and immediate and merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning

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Ordinance from which the Variance is requested does not create a practical difficulty for the Applicant.

8. Requiring the Applicant's strict compliance with the Zoning Ordinance regulations will not render such conformance unnecessarily burdensome.
9. And because granting the request would create future lots that allow house types of only 11 feet wide.

; Ms. Page seconded the motion.

**VOTE: Yea 2 Nay 0**

Mrs. Baker made a motion to approve the requested 2.12 ft. variance from the required 20 ft. parking space length for the two proposed parking spaces for proposed Lot 7-A in accordance with the following:

After considering at this public hearing all of the evidence and testimony presented on this Application for a Variance including the Staff Report and Governmental Agency Comments, I move that Application #BR-BOA-06-01-V for a Parking Space length Variance of 2.12 feet from the 20' requirement of Section 23.1 of the City of Brunswick Zoning Ordinance for proposed Lot 7-A be approved based on the following findings of fact:

1. Special conditions and circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of Sections 23.1 of the Zoning Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
3. The special conditions and circumstances, which exist here are not the result of actions of the Applicant.
4. Granting the requested Variance will not confer on the Applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
5. The granting of the Variance will be in harmony and will not conflict with the purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.

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6. The Variance requested is the minimum necessary to afford the adequate relief that the Applicant needs.
7. The need justifying the Variance is substantial and immediate and not merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning Ordinance from which the Variance is requested creates a practical difficulty for the Applicant.
8. Requiring the Applicant's strict compliance with the Zoning Ordinance regulations will render such conformance unnecessarily burdensome.

;Ms. Page seconded the motion.

**VOTE: Yea 2 Nay 0**

Mrs. Baker made a motion to deny the requested +/- 953.3 sq. ft. variance from the required 2,750 sq. ft. of lot area for a duplex dwelling unit for proposed Lot 6-A in accordance with the following:

After considering at this public hearing all of the evidence and testimony presented on this Application for a Variance including the Staff Report and Governmental Agency Comments, I move that Application #BR-BOA-06-01-V for a Lot Area Variance of +/- 953.3 sq. ft. from the 2,750 sq. ft. requirement of Section 11.6 of the City of Brunswick Zoning Ordinance for proposed Lot 6-A be denied based on the following findings of fact:

1. No special conditions or circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of Sections 11.6 of the Zoning Ordinance do not deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
3. The special conditions and circumstances which exist here are the result of actions of the Applicant.
4. Granting the requested Variance will confer on the Applicant special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
5. The granting of the Variance will not be in harmony and will conflict with the purpose and intent of the Zoning Ordinance and will be injurious to

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the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.

6. The Variance requested is more than the minimum necessary to afford the adequate relief that the Applicant needs.
7. The need justifying the Variance is not substantial and immediate and merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning Ordinance from which the Variance is requested does not create a practical difficulty for the Applicant.
8. Requiring the Applicant's strict compliance with the Zoning Ordinance regulations will not render such conformance unnecessarily burdensome.

;Ms. Page seconded the motion.

**VOTE: Yea 2 Nay 0**

After considering at this public hearing all of the evidence and testimony presented on this Application for a Variance including the Staff Report and Governmental Agency Comments, I move that Application #BR-BOA-06-01-V for a Parking Space Variance of 2 from the 2 Space requirement of Section 23.1(A)(1) of the City of Brunswick Zoning Ordinance be approved based on the following findings of fact:

1. Special conditions and circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of Sections 23.1(A)(1) of the Zoning Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
3. The special conditions and circumstances, which exist here are not the result of actions of the Applicant.
4. Granting the requested Variance will not confer on the Applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
5. The granting of the Variance will be in harmony and will not conflict with the purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.



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6. The Variance requested is the minimum necessary to afford the adequate relief that the Applicant needs.
7. The need justifying the Variance is substantial and immediate and not merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning Ordinance from which the Variance is requested creates a practical difficulty for the Applicant.
8. Requiring the Applicant's strict compliance with the Zoning Ordinance regulations will render such conformance unnecessarily burdensome.

;Ms. Page seconded the motion.

**VOTE: Yea 2 Nay 0**

**New Business:**  
None.

**Board Matters:**  
Mr. Love indicated that there would be a meeting September 28, 2006 for the resolution of the night's case.

**Public Comment:**  
None.

**Adjournment:**  
The meeting was adjourned at: 8:34 PM.

Respectfully submitted,

Dawn Page, Chair  
Brunswick Board of Appeals